

Fisher Broyles

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January 21, 2021

ECF

Edward S. Kiel, USMJ
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07101

Re: Ameritas Life Ins. Corp. v. Wilmington Trust, N.A., USDCNJ no. 2:19-cv-18713

Dear Magistrate Judge Kiel:

We write pursuant to text order entered herein on December 1, 2020 (Doc. 47) to provide a joint letter apprising Your Honor of the status of this matter in anticipation of the telephone status conference set for January 26, 2021 at 3:00 pm.

Status of Discovery

The parties have exchanged written discovery demands and responses as well as documents. There is a motion currently pending before Your Honor concerning Ameritas' request for documents number 12.

Fifteen non-party document subpoenas served by Ameritas remain outstanding as of this writing. One of the outstanding subpoenas (addressed to Life Equity, LLC) is the subject of a motion to compel compliance, which has been fully briefed and is currently pending in the Northern District of Ohio, where the subpoena was served. Another outstanding subpoena (addressed to EEA Life Settlements) is the subject of dispute that Ameritas has been unable to resolve amicably. Ameritas will seek leave of this Court to file its motion to compel compliance, as the subpoena was served within the District of New Jersey. Ameritas is currently attempting to resolve two outstanding subpoenas for which responses are now overdue. Ameritas is awaiting compliance with the remaining subpoenas upon the return date provided therein.

Ameritas has issued a subpoena for testimony to the following non-parties: Hillel Schreiber (Cambridge Settlements, LLC), Yaffa Sarn (widow of insured) and Jonathan Hercksy (trustee of ILIT that was initial owner of the Ameritas policy and also insured's stepson).

Defendant requests an opportunity to conference a question of the completeness of Ameritas' discovery responses on January 26. Ameritas' moving papers on its motion to compel make repeated reference to documents in Ameritas' investigation file, which have not been produced to Wilmington Trust. Defendant has not conferred with counsel for Ameritas on this issue, but referenced it in its opposition to Ameritas' pending discovery motion.

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Pending Motions

Ameritas' motion to compel Wilmington Trust's production of documents in response to Ameritas' Document Request number 12 has been fully briefed based on Magistrate Judge Mannion's and Your Honor's prior orders and is presently pending before Your Honor.

Ameritas' motion to compel full compliance with subpoena directed to Life Equity, LLC has been fully briefed and is presently pending before in the Northern District of Ohio, where the subpoena was served.

Other Issues to be Addressed

The most recent scheduling order entered in this matter by Judge Mannion calls for completion of fact discovery on March 5, 2021 and expert discovery by April 30, 2021. The parties respectfully request extension of the deadline for fact discovery to May 31, 2021 and expert discovery to July 30, 2021.

The parties appreciate the Court's attention and assistance and stand ready to provide any additional information the Court may require.

Respectfully submitted jointly by,

Robert P. Lesko, Partner
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Katherine Skeele
Holland & Knight LLP

Cc: All Counsel of Record via ECF